

**MILLER & MARTIN PLLC**

ATTORNEYS AT LAW

1200 ONE NASHVILLE PLACE

150 FOURTH AVENUE, NORTH

NASHVILLE, TENNESSEE 37219-2433

615/244-9270

FAX 615/256-8197

OR

FAX 615/744-8466  
WRITERS DIRECT NUMBER  
615/734-8572

RECEIVED

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T.R.A. DOCKET ROOM

CHATTANOOGA OFFICE

SUITE 1000 VOLUNTEER BUILDING

832 GEORGIA AVENUE

CHATTANOOGA, TENNESSEE 37402-2289

423/756-6600

FAX 423/785-8480

MELVIN J. MALONE  
NASHVILLE OFFICE

ATLANTA OFFICE

SEVENTH FLOOR

1275 PEACHTREE STREET, N E

ATLANTA, GEORGIA 30309-3576

404/962-6100

FAX 404/962-6300

E-MAIL ADDRESS  
mmalone@nullermartin.com

April 16, 2004

**VIA HAND DELIVERY**

Honorable Deborah Taylor Tate, Chairman  
c/o Sharla Dillon, Docket & Records Manager  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee, 37243-0505

**RE: Tennessee Coalition of Rural Incumbent Telephone Companies and  
Cooperatives Request for Suspension of Wireline to Wireless Number  
Portability Obligations Pursuant to Section 251(f)(2) of the  
Communications Act of 1934, as Amended  
TRA Docket # 03-00633**

Dear Chairman Tate:

Enclosed please find one (1) original and fourteen (14) copies of Verizon Wireless' Opposition to Suspension Request and Petition for Leave to Intervene. Also enclosed is a check in the amount of \$25 00 for the filing fee. If you have any questions or need additional information, please let me know.

Very truly yours,

  
Melvin J. Malone

MJM/cgb

Enclosures

cc: R. Dale Grimes  
Timothy C. Phillips

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BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE  
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IN RE:

TENNESSEE COALITION OF RURAL  
INCUMBENT TELEPHONE COMPANIES  
AND COOPERATIVES REQUEST FOR  
SUSPENSION OF WIRELINE TO WIRELESS  
NUMBER PORTABILITY OBLIGATIONS  
PURSUANT TO SECTION 251(f)(2) OF THE  
COMMUNICATIONS ACT OF 1934, AS  
AMENDED

T.R.A. DOCKET ROOM

DOCKET NO. 03-00633

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**OPPOSITION TO SUSPENSION REQUEST AND  
PETITION FOR LEAVE TO INTERVENE OF VERIZON WIRELESS**

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Cellco Partnership d/b/a Verizon Wireless, on behalf of itself and its affiliates, ("Verizon Wireless" or "Petitioner") hereby submits its opposition to the suspension request and seeks leave to intervene in the above-captioned proceeding. In support of this petition, Petitioner states as follows:

1. Petitioner is a Commercial Mobile Radio Service ("CMRS") provider licensed by the Federal Communications Commission ("FCC") to provide services in the State of Tennessee.
2. Petitioner, through its business conduct in the State of Tennessee, owns and operates certain wireless communications services and facilities throughout 94 of Tennessee's 95 counties.
3. Petitioner provides services in many of the counties in which the members of the Tennessee Coalition of Rural Incumbent Telephone Companies and Cooperatives operate (the "Rural Coalition").

4. The FCC has long determined and affirmed, time and again, the competitive and consumer protection policies that underpin its mandate regarding number portability. All local exchange carriers, rurals included, have been on notice of number portability for many years.

5. Pursuant to the FCC's orders and rules regarding number portability, Petitioner has been required to allow customers to port their numbers out and to accept new customers with numbers to be ported in, and Petitioner is compliant with said orders and rules.

6. Rural consumers will likely seek to port their landline numbers to Verizon Wireless on or after May 24, 2004, the mandated deadline for LNP in the areas outside the top 100 Metropolitan Statistical Areas ("MSAs"). Verizon Wireless will face consumer frustration, as well as loss in business, if it is forced to deny customer porting requests due to LEC waivers.

7. In expectation of full implementation of the FCC's orders and rules on number portability in the timeframes established by the FCC, Petitioner built a fully operational, state-of-the-art porting center in Murfreesboro, Tennessee and currently employs hundreds of Tennesseans at this facility. Verizon Wireless may need to adjust its operations at the Port Center if carriers are excused from their porting obligations.

8. As a CMRS provider in the State of Tennessee, Petitioner has submitted bona fide requests ("BFRs") to approximately seventeen (17) of the twenty (20) members of the Rural Coalition, including CenturyTel of Adamsville, Inc., CenturyTel of Claiborne, Inc., and CenturyTel of Ooltewah-Collegedale, Inc., consistent with the FCC's number portability rules and orders.

9. The FCC's November 10, 2003, order on number portability provides that carriers both inside and outside of the 100 largest MSAs may file requests for waiver or extension of the

portability requirements with the FCC, if they can provide substantial, credible evidence that there are special circumstances that warrant departure from existing rules.

10. The request for a suspension pending the conclusion of this proceeding is inconsistent with the FCC's rules and orders on number portability. To the extent a contested case is convened, it should be expedited and not procedurally employed as a vehicle for delay.

11. State proceedings relying upon § 251(f), or any other provision, are, to say the least, inappropriate vehicles for seeking a suspension or modification of the FCC's rules and orders on number portability. Among other concerns, permitting individual state proceedings could yield a patchwork of different implementation deadlines and standards and thwart the FCC's conclusion that Congress has determined that the FCC should develop a national number portability policy. A patchwork of waivers/suspensions would be a recipe for consumer confusion and dissatisfaction.

12. The request of the Rural Coalition in this forum is inconsistent with the FCC's jurisdictional basis for imposing number portability requirements, as the FCC ordered number portability pursuant to §§ 1, 2, 4(i), and 332, not § 251. Thus, it is beyond the authority of state commissions to abrogate the number portability requirements in proceedings under § 251(f), or any other provision.

13. At a minimum, the petition for suspension before a state administrative agency represents an improper collateral attack on the FCC's number portability orders and exceeds the scope of 47 U.S.C. § 251(f)(2). In the alternative, asking the Authority to do what the FCC has already done is highly inefficient. As a matter of comity and judicial economy, the Authority should defer to the FCC's well-grounded resolution of these same issues. Given the record already developed before the FCC on issues similar, if not identical, to those raised herein by the

Rural Coalition, the appropriate, if not lawfully mandated, forum before which to seek the request made herein is the FCC.

14. The request of the Rural Coalition is not sufficiently supported by fact. In the face of the longstanding timeframes established by the FCC, inadequate preparation does not now justify additional time. The Rural Coalition has not sufficiently articulated, even preliminarily, why requiring them to meet a long-known compliance deadline would be inconsistent with the public interest. The Rural Coalition's unsubstantiated claims, such as uncertainty and technical infeasibility to name a few, should not be permitted to override the FCC's careful consideration of the same. The technical obstacles cited by the members of the Rural Coalition are little different from those faced in some form by all other carriers, including other rural carriers, many of whom are compliant or will be compliant within the FCC established timeframes. Further, the FCC carefully and thoroughly considered the economic impact of its number portability requirements as well.

15. Various claims and allegations in support of the suspension request are inaccurate and unfounded. For example, the Rural Coalition contends in its Amended Petition that "once technical capacity is achieved, technical feasibility will not have been reached" due to the lack of interconnection agreements.<sup>1</sup> The FCC, however, has determined that wireless carriers need not enter into § 251 interconnection agreements with wireline carriers solely for the purpose of porting numbers. The FCC has clarified that the rating and routing "issues" raised by the Rural Coalition do not, if anything, preclude or otherwise impact the requirements for number portability. As the FCC has addressed such and similar issues raised herein by the Rural

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<sup>1</sup> Amended Petition for Suspension, In the Matter of Tennessee Coalition of Rural Incumbent Telephone Companies and Cooperatives Request for Suspension of Wireline to Wireless Number Portability Obligations Pursuant to Section 251(f)(2) of the Communications Act of 1934, as Amended, TRA Docket No. 03-00633, p. 3 (Mar. 24, 2004).

Coalition, the Rural Coalition should be preempted from re-making such arguments here, which may be tantamount to forum shopping.

16. Assuming that § 251(f) is applicable, the Rural Coalition's unsupported, blanket claims on matters previously considered and/or recently clarified by the FCC are not enough, even at this stage, to justify the requested delay. The Rural Coalition simply has not and cannot meet the standards of § 251(f).

17. The request of the Rural Coalition is inconsistent with the public interest, convenience, and necessity.

18. The subject of this proceeding may therefore directly affect Petitioner's operations in the State of Tennessee.

19. As shown above, Petitioner's legal rights, duties, privileges, immunities or other legal interests may be determined in this proceeding.

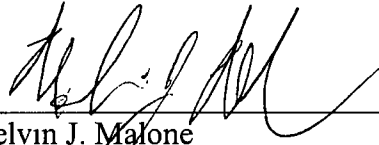
20. Because of its direct interest in this proceeding, Petitioner respectfully seeks to intervene in this matter.

21. The interests of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the requested intervention.

Based on the foregoing considerations, Petitioner opposes the request for suspension and urges the Tennessee Regulatory Authority ("Authority" or "TRA") either to deny and/or dismiss this request as legally and/or factually unsupported, to defer to the FCC, or to grant the request for intervention. If the Authority does not summarily deny and/or dismiss this request or defer to

the FCC, any proceeding pursuant to this petition should be undertaken on an expedited basis.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Barclay Phillips', is written over a horizontal line.

Melvin J. Malone  
J. Barclay Phillips  
MILLER & MARTIN PLLC  
150 Fourth Avenue North  
1200 First Union Tower  
Nashville, TN 37219-2433  
(615) 244-9270

Attorneys for Verizon Wireless

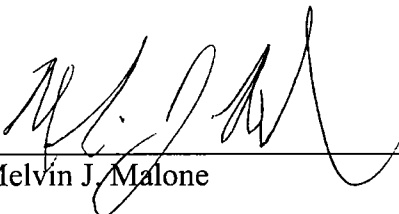
Anne Hoskins  
Lolita Forbes  
Counsel for Verizon Wireless

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served by U.S. Mail, postage prepaid, this 16<sup>th</sup> day of April, 2004, upon the following.

R. Dale Grimes  
Bass, Berry & Sims PLC  
AmSouth Center  
315 Deaderick Street, Suite 2700  
Nashville, Tennessee 37238-3001

Timothy C. Phillips  
Asst Attorney General  
Office of the Attorney General  
P.O. Box 20207  
Nashville, Tennessee 37202

  
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Melvin J. Malone